

Patrick B. FARLEY, *et al.*  
Serial No. 10/549,358  
June 22, 2009

### REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

The Examiner is thanked for withdrawing earlier grounds of rejection.

In response to the claim objections as being substantial duplicates, claims 4, 5, 12 and 13 have now also been cancelled above. Hopefully, this will obviate the Examiner's concern about substantial duplication between claims.

The rejection of claims 1, 3, 7-9, 16-18 and 21 under 35 U.S.C. §103 as allegedly being made "obvious" based on Nozaki '644 in view of Ahuja '869 is respectfully traversed.

As will be observed above, the claims have been amended so as to emphasize the fact that the claimed invention is limited to a WSDL/SOAP system.

As Nozaki (6:27) says, "The present invention can be easily applied to a WWW system." However, it would not work on a WSDL/SOAP system.

Nozaki load-balances across HTTP servers. Applicants manage load across SOAP servers. HTTP uses a request/response model. While SOAP services use HTTP for transport, Nozaki's solution simply would not work for SOAP services. SOAP service operation happens in two intimately linked steps: 1) get WSDL, and 2) go to the place defined in the WSDL to make the service request. This link between the two

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steps breaks Nozaki's solution for SOAP services. A SOAP client would perform step 1 and bypass the claimed invention for step 2.

Applicants' claimed invention uses the link between step 1 and step 2 to bring load management features to bear on step 2.

Nozaki might be called "load-balance" and applicants' system may be referred to as "load management" because of another feature missing from Nozaki, i.e., throttle-back. Applicants' invention allows a maximum throughput to be dynamically specified for each client and that client is held to that throughput rate. If the client exceeds their allowed throughput, their requests are delayed to bring them back within their allowance. Nozaki has no such feature.

Nozaki mentions three methods for the proxy to get server load status (8:30 to 9:14). These methods unnecessarily delay requests or are likely to be blocked by typical firewall set-up.

Applicants use another method, i.e., the IMSS configures the IMCS to poll it at regular, defined periods. This complies with most firewalls and maximizes flexibility and responsiveness of the solution.

Ahuja is a passive mechanism by which the client-side can determine details of clusters of servers and their individual performance data. It is effectively an extension of HTTP with a little logic on the client side profiling server clusters. It is very different

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from applicants' invention. It never actually says it "re-routes failed requests to alternative servers..." It does, however, detect failed servers and transparently redirects "subsequent" requests to other servers. It might be straight-forward to extend this to redirect failed requests – but such would operate in a very different way from applicants' invention. Further, one can only do this in response to a call failing, whereas applicants' invention can redirect calls because it already knows the server is down without having to place a failed call first.

Again, Ahuja would work well with HTTP – but because of the two-step aspect of SOAP service operation, Ahuja would not support SOAP services.

Given such fundamental deficiencies of both of these references with respect to the above-discussed aspects that are now emphasized in all pending independent claims, it is not believed necessary to discuss additional deficiencies of these references with respect to other aspects of the rejected claims. Suffice it to note that, as a matter of law, it is impossible to support even a *prima facie* case of obviousness unless the cited references teach or suggest each and every feature of the claimed inventions.

The rejection of claims 2, 4, 5, 10, 12, 13 and 22 under 35 U.S.C. §103 based on Nozaki/Ahuja in further view of Stricek is also respectfully traversed.

Fundamental deficiencies of Nozaki/Ahuja have already been noted above for independent claims 1 and 9. Stricek does not supply those deficiencies. Accordingly, it

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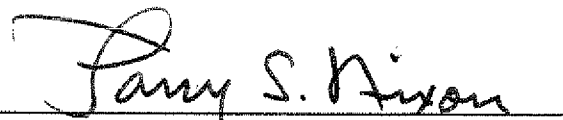
is not necessary at this time to detail additional deficiencies of this allegedly "obvious" combination of three references with respect to other aspects of the rejected claims. Suffice it to note that, as a matter of law, it is impossible to support even a *prima facie* case of obviousness unless all cited references collectively teach or suggest every feature of the claimed subject matter.

Accordingly, this entire application is now believed to be in allowable condition, and a formal notice to that effect is earnestly solicited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:

  
Larry S. Nixon  
Reg. No. 25,640

LSN:lef

901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100